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December 11, 2017

VIA ECF

Judge James Orenstein
United State District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
Courtroom 11D South

Re: *James Stewart v. Portfolio Recovery Associates, LLC*
Case No.: 1:17-cv-04512-LDH-JO
Unopposed Request to Vacate Scheduling Order

Your Honor:

This firm represents Defendant Portfolio Recovery Associates, LLC ("PRA") in the above referenced matter. PRA respectfully requests that this Court vacate the Scheduling Order entered on August 11, 2017. Pursuant to Your Honor's individual practices rules, PRA states the following:

- a) PRA removed this case on August 1, 2017. At the time PRA removed the case, Plaintiff had not filed a Complaint in New York state court, but had instead filed a notice and summons. After removal, the Court entered a Scheduling Order on August 11, 2017 (Dkt. No. 6). At the time the Scheduling Order was entered, Plaintiff had not yet filed a Complaint. The parties submitted a joint letter on September 20, 2017 providing a schedule by which Plaintiff would file the Complaint. The Complaint was filed on October 26, 2017 and PRA filed its responsive pleading last week on December 5, 2017;
- b) Based on the current procedural posture of the case and given that a Complaint was not filed until over a month after the entry of the Scheduling Order, the Parties respectfully request that the Court vacate the original Scheduling Order and enter a new Scheduling Order;
- b) This is the first request for to vacate or amend the Scheduling Order by either party;
- c) Plaintiff consents to PRA's request; and
- d) PRA intends to file a motion to stay this case pending decisions in *Derosa v. CAC Fin. Corp.*, 16-CV-1472, 2017 U.S. Dist. LEXIS 162415 (E.D.N.Y. Sept. 29, 2017), *appeal docketed*, 17-3189 (2d Cir. Oct. 4, 2017) and *Taylor v. Fin. Recovery Servs.*, 252 F. Supp. 3d 344 (S.D.N.Y. 2017), *appeal filed*, 17-1650 (2d Cir. Nov. 3, 2017), and has so advised Plaintiff's counsel. PRA's motion to stay notwithstanding, the parties anticipate filing a revised proposed scheduling order by December 18, 2017.

For these reasons, PRA respectfully requests that the Court vacate the August 11, 2017 Scheduling Order.

If Your Honor has any questions or concerns regarding this request, please feel free to contact me. We thank Your Honor for your consideration of this request.

Sincerely,

/s/ Stephen J. Steinlight
Stephen J. Steinlight